

House Study Bill 41 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
ADMINISTRATIVE SERVICES
BILL)

A BILL FOR

1 An Act concerning setoff procedures for collection of debts
2 owed a state agency or political subdivision.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 8A.504, subsection 1, paragraph a, Code
2 2013, is amended to read as follows:

3 a. "*Collection entity*" means the department of
4 administrative services and any other ~~state~~ agency that
5 maintains a separate accounting system and elects to establish
6 a debt collection setoff procedure for collection of debts owed
7 to ~~the state or its agencies~~ an agency.

8 Sec. 2. Section 8A.504, subsection 1, Code 2013, is amended
9 by adding the following new paragraph:

10 NEW PARAGRAPH. *Ob.* "*Debtor*" means a person who is liable
11 on a claim to an agency.

12 Sec. 3. Section 8A.504, subsection 1, paragraph b, Code
13 2013, is amended to read as follows:

14 b. "*Person*" does not include ~~a state~~ an agency.

15 Sec. 4. Section 8A.504, subsection 1, paragraph d, Code
16 2013, is amended to read as follows:

17 d. "~~State agency~~" "Agency" means a board, commission,
18 department, including the department of administrative
19 services, or other administrative office or unit of the
20 state of Iowa or any other state entity reported in the
21 Iowa comprehensive annual financial report, or a political
22 subdivision of the state, or an office or unit of a political
23 subdivision. "~~State agency~~" "Agency" does include the clerk
24 of the district court as it relates to the collection of a
25 qualifying debt. "~~State agency~~" "Agency" does not include the
26 general assembly or the governor.

27 Sec. 5. Section 8A.504, subsections 2, 3, and 5, Code 2013,
28 are amended to read as follows:

29 2. *Setoff procedure.* The collection entity shall establish
30 and maintain a procedure to set off against any claim owed to a
31 ~~person~~ debtor by ~~a state~~ an agency any liability of that ~~person~~
32 debtor owed to ~~a state~~ an agency, a support debt being enforced
33 by the child support recovery unit pursuant to chapter 252B,
34 or such other qualifying debt. The procedure shall only apply
35 when at the discretion of the director it is feasible. The

1 procedure shall meet the following conditions:

2 a. Before setoff, a ~~person's~~ debtor's liability to a ~~state~~
3 an agency and the ~~person's~~ debtor's claim on a ~~state~~ an agency
4 shall be in the form of a liquidated sum due, owing, and
5 payable.

6 b. Before setoff, the ~~state~~ agency shall obtain and forward
7 to the collection entity the full name and social security
8 number of the ~~person~~ debtor liable to it the agency or to whom
9 a claim is owing who is a natural person. If the ~~person~~ debtor
10 is not a natural person, before setoff, the ~~state~~ agency shall
11 forward to the collection entity the information concerning the
12 ~~person~~ debtor as the collection entity shall, by rule, require.
13 The collection entity shall cooperate with other ~~state~~ agencies
14 in the exchange of information relevant to the identification
15 of ~~persons~~ debtors liable to or claimants of ~~state~~ agencies.
16 However, the collection entity shall provide only relevant
17 information required by a ~~state~~ an agency. The information
18 shall be held in confidence and used for the purpose of setoff
19 only. Section 422.72, subsection 1, does not apply to this
20 paragraph.

21 c. Before setoff, a ~~state~~ an agency shall, at least
22 annually, submit to the collection entity the information
23 required by paragraph "b" along with the amount of each ~~person's~~
24 debtor's liability to and the amount of each claim on the ~~state~~
25 agency. The collection entity may, by rule, require more
26 frequent submissions.

27 d. Before setoff, the amount of a ~~person's~~ debtor's claim
28 on a ~~state~~ an agency and the amount of a ~~person's~~ debtor's
29 liability to a ~~state~~ an agency shall constitute a minimum
30 amount set by rule of the collection entity.

31 e. Upon submission of an allegation of liability by a
32 ~~state~~ an agency, the collection entity shall notify the ~~state~~
33 agency whether the ~~person~~ debtor allegedly liable is entitled
34 to payment from a ~~state~~ an agency, and, if so entitled, shall
35 notify the ~~state~~ agency of the amount of the ~~person's~~ debtor's

1 entitlement and of the ~~person's~~ debtor's last address known to
2 the collection entity. Section 422.72, subsection 1, does not
3 apply to this paragraph.

4 *f.* (1) Upon notice of entitlement to a payment, the ~~state~~
5 agency shall send written notification to that ~~person~~ debtor
6 of the ~~state~~ agency's assertion of its rights to all or a
7 portion of the payment and of the ~~state~~ agency's entitlement
8 to recover the liability through the setoff procedure, the
9 basis of the assertion, the opportunity to request that a
10 jointly or commonly owned right to payment be divided among
11 owners, and the ~~person's~~ debtor's opportunity to give written
12 notice of intent to contest the amount of the allegation. The
13 ~~state~~ agency shall send a copy of the notice to the collection
14 entity. ~~A state~~ An agency subject to chapter 17A shall give
15 notice, conduct hearings, and allow appeals in conformity with
16 chapter 17A.

17 (2) However, upon submission of an allegation of the
18 liability of a ~~person~~ debtor which is owing and payable to the
19 clerk of the district court and upon the determination by the
20 collection entity that the ~~person~~ debtor allegedly liable is
21 entitled to payment from ~~a state~~ an agency, the collection
22 entity shall send written notification to the ~~person~~ debtor
23 which states the assertion by the clerk of the district court
24 of rights to all or a portion of the payment, the clerk's
25 entitlement to recover the liability through the setoff
26 procedure, the basis of the assertions, the ~~person's~~ debtor's
27 opportunity to request within fifteen days of the mailing of
28 the notice that the collection entity divide a jointly or
29 commonly owned right to payment between owners, the opportunity
30 to contest the liability to the clerk by written application
31 to the clerk within fifteen days of the mailing of the notice,
32 and the ~~person's~~ debtor's opportunity to contest the collection
33 entity's setoff procedure.

34 *g.* Upon the timely request of a ~~person~~ debtor liable to
35 ~~a state~~ an agency or of the spouse of that ~~person~~ debtor and

1 upon receipt of the full name and social security number of
2 the ~~person's~~ debtor's spouse, ~~a state~~ an agency shall notify
3 the collection entity of the request to divide a jointly or
4 commonly owned right to payment. Any jointly or commonly owned
5 right to payment is rebuttably presumed to be owned in equal
6 portions by its joint or common owners.

7 *h.* The collection entity ~~shall~~, after the ~~state~~ agency has
8 sent notice to the ~~person~~ debtor liable or, if the liability
9 is owing and payable to the clerk of the district court, after
10 the collection entity has sent notice to the ~~person~~ debtor
11 liable, shall set off the amount owed to the agency against any
12 amount which ~~a state~~ an agency owes that ~~person~~ debtor. The
13 collection entity shall refund any balance of the amount to
14 the ~~person~~ debtor. The collection entity shall periodically
15 transfer amounts set off to the ~~state~~ agencies entitled to
16 them. If a ~~person~~ debtor liable to a ~~state~~ an agency gives
17 written notice of intent to contest an allegation, a ~~state~~ an
18 agency shall hold a refund or rebate until final disposition
19 of the allegation. Upon completion of the setoff, a ~~state~~ an
20 agency shall notify in writing the ~~person~~ debtor who was liable
21 or, if the liability is owing and payable to the clerk of the
22 district court, shall comply with the procedures as provided
23 in paragraph "*j*".

24 *i.* The department of revenue's existing right to credit
25 against tax due or to become due under section 422.73 is not to
26 be impaired by a right granted to or a duty imposed upon the
27 collection entity or other ~~state~~ agency by this section. This
28 section is not intended to impose upon the collection entity or
29 the department of revenue any additional requirement of notice,
30 hearing, or appeal concerning the right to credit against tax
31 due under section 422.73.

32 *j.* If the alleged liability is owing and payable to the
33 clerk of the district court and setoff as provided in this
34 section is sought, all of the following shall apply:

35 (1) The judicial branch shall prescribe procedures to

1 permit a ~~person~~ debtor to contest the amount of the ~~person's~~
2 debtor's liability to the clerk of the district court.

3 (2) The collection entity shall, except for the procedures
4 described in subparagraph (1), prescribe any other applicable
5 procedures concerning setoff as provided in this subsection.

6 (3) Upon completion of the setoff, the collection entity
7 shall file, at least monthly, with the clerk of the district
8 court a notice of satisfaction of each obligation to the
9 full extent of all moneys collected in satisfaction of the
10 obligation. The clerk shall record the notice and enter a
11 satisfaction for the amounts collected and a separate written
12 notice is not required.

13 k. If the alleged liability is owing and payable to a
14 ~~community college~~ political subdivision and setoff pursuant to
15 this section is sought, both of the following shall apply:

16 (1) In addition to satisfying other applicable setoff
17 procedures established under this subsection, the ~~community~~
18 ~~college~~ political subdivision shall ~~prescribe~~ establish and
19 implement procedures to permit a ~~person~~ debtor to contest the
20 validity or the amount of the person's debtor's liability to
21 the ~~community college~~ political subdivision. Such procedures
22 shall be consistent with and ensure the protection of the
23 ~~person's~~ debtor's right of due process under Iowa law.

24 (2) The collection entity shall, except for the procedures
25 prescribed pursuant to subparagraph (1), prescribe any other
26 applicable procedures concerning setoff as provided in this
27 subsection.

28 3. In the case of multiple claims to payments filed under
29 this section, priority shall be given to claims filed by the
30 child support recovery unit or the foster care recovery unit,
31 next priority shall be given to claims filed by the clerk of
32 the district court, next priority shall be given to claims
33 filed by the college student aid commission, next priority
34 shall be given to claims filed by the investigations division
35 of the department of inspections and appeals, and last priority

1 shall be given to claims filed by other ~~state~~ agencies. In the
2 case of multiple claims in which the priority is not otherwise
3 provided by this subsection, priority shall be determined in
4 accordance with rules to be established by the director.

5 5. Under substantive rules established by the director, the
6 department shall seek reimbursement from other ~~state~~ agencies
7 to recover its costs for setting off liabilities.

8 Sec. 6. Section 99D.2, subsection 3, Code 2013, is amended
9 to read as follows:

10 3. "*Claimant agency*" means ~~a state~~ an agency as defined in
11 section 8A.504, subsection 1, or the state court administrator
12 as defined in section 602.1101.

13 Sec. 7. Section 99F.1, subsection 4, Code 2013, is amended
14 to read as follows:

15 4. "*Claimant agency*" means ~~a state~~ an agency as defined in
16 section 8A.504, subsection 1, or the state court administrator
17 as defined in section 602.1101.

18 Sec. 8. Section 234.8, Code 2013, is amended to read as
19 follows:

20 **234.8 Fees for child welfare services.**

21 The department of human services may charge a fee for
22 child welfare services to a person liable for the cost of the
23 services. The fee shall not exceed the reasonable cost of the
24 services. The fee shall be based upon the person's ability
25 to pay and consideration of the fee's impact upon the liable
26 person's family and the goals identified in the case permanency
27 plan. The department may assess the liable person for the
28 fee and the means of recovery shall include a setoff against
29 an amount owed by ~~a state~~ an agency to the person assessed
30 pursuant to section 8A.504. In addition the department may
31 establish an administrative process to recover the assessment
32 through automatic income withholding. The department shall
33 adopt rules pursuant to chapter 17A to implement the provisions
34 of this section. This section does not apply to court-ordered
35 services provided to juveniles which are a charge upon the

1 state pursuant to section 232.141 and services for which the
2 department has established a support obligation pursuant to
3 section 234.39.

4

EXPLANATION

5 This bill concerns setoff procedures established in Code
6 section 8A.504 and used to collect debts owed the state or a
7 political subdivision of the state.

8 The bill redesignates the term "agency" rather than as the
9 defined term "state agency" while keeping the definition the
10 same. The bill also defines "debtor" as a person who is liable
11 on a claim to an agency. Corresponding changes to terms in
12 Code section 8A.504 are made to reflect these changes.

13 Code section 8A.504(2)(k), relating to additional setoff
14 requirements for debts owing and payable to a community
15 college, is amended. The bill provides that the additional
16 requirements apply to political subdivisions, that political
17 subdivisions shall establish and implement these enhanced
18 procedures, and that the procedures shall permit a debtor to
19 contest the validity or the amount of the debtor's claimed
20 liability.